

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ENZO BIOCHEM, INC., *et al.*,

Plaintiffs,

-v-

AMERSHAM PLC, *et al.*,

Defendants.

ENZO BIOCHEM, INC., *et al.*,

Plaintiffs,

-v-

MOLECULAR PROBES, INC., *et al.*,

Defendants.

ENZO BIOCHEM, INC., *et al.*,

Plaintiffs,

-v-

PERKINELMER, INC., *et al.*,

Defendants.

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DATE FILED: 9-12-11

No. 02 Civ. 8448 (RJS)
ORDER

No. 03 Civ. 3816 (RJS)
ORDER

No. 03 Civ. 3817 (RJS)
ORDER

ENZO BIOCHEM, INC., *et al.*,

Plaintiffs,

-v-

ORCHID BIOSCIENCES, INC.,

Defendant.

No. 03 Civ. 3819 (RJS)
ORDER

AFFYMETRIX, INC.,

Plaintiff,

-v-

ENZO BIOCHEM, INC., *et al.*,

Defendants.

No. 03 Civ. 8907 (RJS)
ORDER

ENZO LIFE SCIENCES, INC.,

Plaintiff,

-v-

AFFYMETRIX, INC.,

Defendant.

No. 04 Civ. 1555 (RJS)
ORDER

ROCHE DIAGNOSTICS GMBH,

Plaintiff,

-v-

ENZO BIOCHEM, INC., *et al.*,

Defendants.

No. 04 Civ. 4046 (RJS)
ORDER

RICHARD J. SULLIVAN, District Judge:

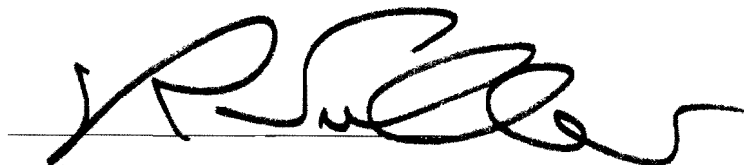
The Court is in receipt of a September 2, 2011 letter from Enzo Biochem, Inc. and Enzo Life Sciences, Inc. (“Enzo”), requesting permission to file a motion for summary judgment in light of the Federal Circuit’s decision in *Enzo Biochem, Inc. v. Applera Corp.*, 599 F.3d 1325 (Fed. Cir. 2010). The Court has also received a September 8, 2011 letter opposing that request from Amersham plc, Amersham Biosciences, Molecular Probes, Inc., Orchid Biosciences, Inc., PerkinElmer, Inc., PerkinElmer Life Sciences, Inc., Roche Diagnostics GmbH, and Roche Molecular Systems, Inc. (“co-defendants”).

The Court agrees with the co-defendants that the time to make new motions for summary judgment has passed. In essence, Enzo’s request is an attempt to relitigate issues of claim construction that were decided by Judge Sprizzo in 2006. The Court sees no reason to revisit such matters and finds nothing in the Federal Circuit’s 2010 ruling that compels, or even suggests, such a result. While the Court has permitted parties to renew motions that were previously filed before Judge Sprizzo prior to the entry of the stay in this matter, Enzo’s new motions are untimely. Accordingly, IT IS HEREBY ORDERED that Enzo’s request to file a motion for summary judgment is DENIED.

It is FURTHER ORDERED that the parties abide by the briefing schedule as set forth in the Court's Order of August 25, 2011.

SO ORDERED.

DATED: September 12, 2011
New York, New York

A handwritten signature in black ink, appearing to read 'R. Sullivan', written over a horizontal line.

RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE